

MOST CANDED CRITICS OF AMERICA OUR OWN PEOPLE, SAYS SIR PHILIP GIBBS

Many Prophets of Woe Paint Sordid Pictures of What Future Holds

Noted Britisher on Tour of United States Finds Much Pessimism.

TOO MANY DIVERSIONS

Old Stock and Aliens, Local Versus General Interests, West Against East.

INEQUALITY OF WEALTH

Paralysis of Trade, Brutality of Capital, Crushing of Individualism.

By SIR PHILIP GIBBS.

After a lecture tour here in the United States from coast to coast—the last I shall ever make, because it is the most exhausting form of travel I know—it seems to me that it might be well for me to put down some of the things I have heard in conversation with many different types of people in many American cities. I am sure that some of these conversations, in smoking cars, in drawing rooms, at dinner parties, in automobiles, would be as valuable to the general public of the United States as they have been to me in revealing certain fears, doubts and aspects of thought among intellectual, hard thinking analytical minds regarding the present state and future development of this great country.

It has never been a habit of mine, and never will be, to criticize the United States. That would seem to me as impertinent as criticizing the whole order of nature or as a straw criticizing the ebb and flow of the great tides. But it is the right of the American people, as of any people, to criticize themselves, to measure up their own achievements and to forecast their own development, and I have been listening to quite a number of candid critics of American life and customs. Perhaps they reveal themselves to me more candidly than they would to one of their own nation, just as most of us are more self-revealing to sympathetic friends than to members of our own family. What has surprised me a little is the sadness, even the pessimism, of certain thoughtful souls in this New World which to people in the Old World seemed to be so vital in youthful optimism, so naturally self-confident because of immense power and inexhaustible resources.

"United States Is Doomed."

The saddest man I met was in a city of the middle West, a great bustling, prosperous city in which he was one of the most successful men. I met him at an evening party where there was much laughter, many beautiful women and no prohibition. Lovely it was in atmosphere, not conducive to melancholy, but at intervals during the evening my new friend kept repeating one dreadful sentence in a sepulchral and emphatic voice.

"The United States is doomed! Nothing can save us!"

In spite of counter attractions, many and alluring, I sat myself down

Working Women Fight 'Equal Rights' Amendment, Saying It Will Destroy Special Safeguards in Industry

Special Dispatch to THE NEW YORK HERALD.

New York Herald Bureau, Washington, D. C., March 18.—Thousands of American working women, members of the National American Trade Union League of America, are in the midst of what promises to be a bitter fight to keep on the nation's statute books, laws enacted for their benefit.

Under way to-day is a countrywide drive, sponsored by the league, against the proposed "equal rights blanket" amendment which the National Woman's party is asking the Legislatures of nine States to write into the Constitution. Working women assert that adoption of this amendment would tear down practically every legislative safeguard for which they have fought so long and they are rallying to the cry that the proposed amendment is "vicious, menacing and disastrous" to their industrial progress.

Fighting for their rights is not a new experience for the American working women. They began their struggle for industrial freedom away back in the dark ages of the early nineteenth century. The struggle, marked by considerable success, has continued unabated ever since. It is on to-day, and indications are that it will not end until the shackles of alleged oppression have been unloosed.

Unlike her European sister, records show that the working woman in this country has made most of her industrial progress by even tempered appeals in the legislative halls of the country.

The first expression in the century old struggle was a strike in 1825. Since then the conflict has resolved itself around legislation.

Mrs. Raymond Robins of Chicago, president of the National Woman's

Trade Union League and renowned champion of women's industrial rights, is leading a group of women who are being waged. Mrs. Robins is working on a big scale. She has enlisted Congressional aid in the battle to defeat the "equal rights" amendment, and has put up to President Harding demands of the working women that he support their contentions.

Trade unionists, according to Mrs. Robins, believe in the principle of political, civil and legal equality for women with men, but they scorn "blanket" legislation to attain this equality. In practically every State in the union working women prefer that the equality be obtained by separate State laws and not by amending the Constitution.

The National Woman's Party is just as determined in its fight to have the proposed change written into the organic laws of the nation as the working women are to prevent its adoption.

The proposed constitutional change finds many eminent legal authorities differing in its interpretation. Whether it would abrogate existing laws regulating employment of women in industry is a moot question, they claim. Mrs. Robins frankly states that the well defined diversity of opinion presages long drawn out litigation in the courts if the trade unionists lose their fight, and the proposed amendment is approved.

In the center of the ring repose this short and simple proposal, over which the dissension between the organized working women and the women making up what is termed the "new feminist movement" arises:

"No political, civil, or legal disabilities or inequalities on account of sex, or on account of marriage, unless applying alike to both sexes, shall exist within the United States or any place subject to its jurisdiction."

Too Many Bad Laws and American Flapper Are Seen as a Menace

"THERE are too many laws," some of the critics told Sir Philip. "There is no longer respect for law," say others, "because they impose restraints contrary to the liberty of reasonable beings"—which being interpreted means mostly "why shouldn't a man have a drink if he wants one?" or "why should he be debarred from buying cigarettes in Nebraska?"

The American "flapper" is another cause of impending doom, it appears, to these American critics of American life. She is not going to be the mother of good men. She is a heartless little hussy (poor darling!), and her painted cheek against the clean shaven jaw of the undergraduate in the jazz dance is as false in its color as the hue of her heart, and she is dancing with him to perdition.

There are other American critics I have met during recent weeks who challenge the whole system of civilization in the disaster owing to an excess of luxury, a wild standard of pleasure and an inequality of wealth, which cannot be maintained much longer because the consequences of the world war, and a creeping paralysis of world trade, will rob the United States of that margin and surplus of wealth which was so quickly gained and seemed so enduring during the years of national expansion.

It is astonishing how in my travels during the last two months so many people have come to me with distressful tales, with serious forebodings: a telephone ring, a stranger on the mezzanine floor, or another visitor to my bedroom between one lecture and another, and then I am face to face with a new prophet who foresees the political downfall or the moral upheaval of the United States.

Compare Capital and Labor.

The intolerance and brutality of capital to labor is the theme of some of these visitors, and they contrast too favorably perhaps—the easy tolerance of English Government, the broad-mindedness of the English press in giving a fair deal to labor problems and points of view with the autocracy of State control, the crushing of individualism by State discipline (witness prohibition!) in this country. Like the English, they are distressed by the people who are gravely troubled ahead of labor in the United States is driven to work underground because it is denied free ventilation of ideas, and if the individual is regarded as a rebel to the State when he refuses to obey laws which were imposed upon him without his consent and against his will.

Militarism is getting its hold upon the younger generation, say other men. A tide of imperialism is beginning to creep up in spite of the Washington conference and the Root resolutions, is the view of other minds, studying the tendencies of the time.

I might extend my list of prophecies as I have heard them in this city or that, but I have written

the above, for I believe that the United States anxious voices unheard above the cheerful traffic of its life, melancholy amid the boisterous noise of its activity, unheard by the masses which make up public opinion, and in speaking words now and then in moments of self-revelation which sound strangely to a man like myself impressed by the energy, the vitality, the cheerfulness, the enormous self-confidence, the tremendous all-of-a-kind optimism of the American people as a whole. They speak too darkly, those prophets of woe. Yet, is there any grain of truth in their sense of underlying dangers—danger to individual liberty in this land of liberty, danger to the old standard of life and luxury, danger to economic health and security? I do not think I would like to know!

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There is another difference between criminal and civil law suits. In a civil law suit a preponderance of evidence is enough to bring in a verdict for the plaintiff or the defendant. In a criminal case the plaintiff and defendant are theoretically on an even footing. There is no presumption in favor or against either of them. The witnesses of one are as much entitled to be believed as the witnesses of the other.

In a criminal case the legal presumption is that the defendant is innocent and that proof of guilt continues until he has been proved to be guilty and the jury has been convinced of his guilt "beyond a reasonable doubt."

Also in a civil lawsuit either side may appeal. The defendant may appeal from a judgment for the plaintiff and the plaintiff may appeal from a judgment for the defendant. In a criminal case only the defendant may appeal.

Acquittal by Jury Final; Judges Cannot Revoke Verdict

In the three cases in which the jury acquitted and were rebuked by the court the defendants were freed at once and neither the judge nor the Appellate Courts had the power to review or set aside the jury's verdicts. In a civil case the trial judge, the Appellate Division or the Court of Appeals may any one of them set aside the jury's verdict and in most cases enter a judgment contrary to the jury's verdict.

That is the reason why judges in criminal cases sometimes rebuke the jury, while judges in civil cases almost never find fault with the jury. If there is no dispute in the facts for the jury to decide the judge in a civil case usually decides the matter himself.

More than 100,000 men are called every year for jury service in Greater New York. There are five commissioners of jurors, one for each county. Frederick O'Brien for New York; Charles F. Murphy, Brooklyn; formerly Republican State Senator for Brooklyn; John A. Mason for the

three judges of the Court of General Sessions rebuked and discharged jurors for their failure to bring in a verdict of conviction. If this had been a civil court the judges could have decided the cases themselves.

That is one of the big differences between the trial of law suits which involve property rights and the trial of men accused of crime. The attitude of these judges also leads to the inquiry as to what are the historical and constitutional functions of a Judge and a jury.

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General Sessions Judges Censure Balky Juries Which Hesitate to Convict Because Guilt Is Nearly a Certainty When Prisoners Are Arraigned There

But Theory of Reasonable Doubt Always Prevails to Protect Criminals if Evidence Is Not Conclusive and Thus They Escape Justice.

By WILLIAM M. MURPHY SPEER.

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Prior to this the Bill of Rights, which has been adopted in American constitutions, provided for trial by jury. New York State constitution says, "The trial by jury in all cases in which it has been heretofore used shall remain inviolate forever."

Hence, although in a law suit involving the title to land or the payment of money or the execution of a will or other property rights the judge can decide the case himself or direct the jury to bring in a verdict in accordance with the judge's views of the facts and of the law. In a criminal case the judge cannot convict and is not allowed to decide the facts or even to tell the jury what his opinion of the facts is.

If the trial judge believes there is not sufficient evidence to convict the accused he can say so and that disposes of the case. But no matter how guilty the judge may believe the man to be it requires the unanimous vote of the twelve jurymen to convict him.

Instructions by the Court Often a Guide to Jury

Some judges in effect get around this provision that the jury are the sole judges of the facts in a criminal case by so instructing the jury as to the law that the judicial attitude on the question of the guilt of the accused man is made clear.

Judges sitting year in and year out are more inclined to believe in the guilt than the innocence of the man arraigned before them. Every judge knows that before a man is brought before him for trial the evidence has been investigated by the district attorney's office, that the police have made an investigation, that a magistrate has found the evidence to hold the prisoner and that the Grand Jury has had before it sufficient evidence to indict.

The probabilities are that the man arraigned in General Sessions is guilty. Also, two-thirds of the men who are indicted in New York County either plead guilty or are convicted.

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avoid calling the same man more than once in two years.

It would appear from this that the service in the criminal courts is more onerous than in the civil courts since the period of service is longer and the nature of the work is more distasteful. Also the amount of perjury, that is, false swearing, is greater in the criminal courts than in the civil courts.

Many of the acquittals in the criminal courts with which the judges find fault are due to the belief of the jurors that policemen, especially detectives, have overborne themselves. It is incredible to the average jurymen that men accused of crime should so often make elaborate voluntary confessions to a stenographer in the presence of several detectives. The jurymen are prone to believe the defendant who testifies in the trial that the detectives beat him and clubbed him until he was willing to confess to anything to put a stop to the third degree methods.

The judge is more inclined to consider whether the defendant committed the crime. The jury are more likely to consider whether the defendant has made a fair show.

The jury exemptions, increased in number from time to time by the Legislature, exclude from compulsory jury service, clergymen, physicians, surgeons, dentists, veterinarians, licensed embalmers, optometrists, lawyers, professors, teachers, editors, editorial writers, reporters, officeholders, consuls, officers of ships, licensed pilots, superintendents, conductors and engineers of a railroad company other than a street railroad, telegraph operators, mailmen, active members of the Old Guard, election officers, licensed steam boiler engineers, policemen, firemen and street cleaners.

It is forbidden that the jury list shall be made up from the poll list. This was done to prevent men from voluntarily failing to register in order to keep off the jury lists.

The jury lists are prepared in the main from the telephone directory, the "Blue Book," the "Social Register," the City Directory, the census and the real estate records.

Jury's Pay of \$3 a Day No Drawback Update

The property qualification and the prohibition of the use of the poll list insure the selection of juries from men of average or better financial circumstances. The requirement of in-

teligence and the ability to read and write the English language is shown by preliminary examination by a jury commissioner and insures that the jury list does not include ignorant, illiterate men.

In other parts of the State there is no such reluctance to serve on juries as in New York County. In the rural counties three dollars a day is to many men good pay and sitting on a jury is an easy and interesting work. During the winter many farmers are glad to be called on juries in the county seat, where they get free meals at the best hotel while serving on the jury and three dollars a day for sitting in the court room listening to the lawyers' speeches and the various topics of local litigation.

The jury system is a venerable institution. It is sometimes proposed to substitute judges for jurors. This has been done in the trial of minor criminal offenses in the Court of Special Sessions, where there are no jurors, and in police courts for drunken and disorderly, automobile violations and the like.

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